

# **EXHIBIT 3**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., X

et al.,

Plaintiffs,

V.

Civil Case No.

LAWRENCE HOGAN, et al.,

16-cv-3311-MJG

Defendants.

## Deposition of GARY KLECK

Baltimore, Maryland

May 18, 2018

10:02 a.m.

Job No.: 190812

Pages: 1 - 52

Transcribed by: Bobbi J. Fisher, RPR

Transcript of Gary Kleck  
Conducted on May 18, 2018

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1 Q. Have you done any study or analysis to  
2 determine if the training required by the Maryland  
3 HQL law has reduced the number of accidental  
4 shootings in Maryland?

5 A. No.

6 Q. Are you aware of any such studies?

7 A. No.

8 Q. Are you aware of any empirical facts or  
9 data that show whether the training required by the  
10 Maryland HQL law has reduced the number of  
11 accidental shootings in Maryland?

12 A. No.

13 Q. So in light of that testimony, you would  
14 agree that you don't know one way or the other  
15 whether the training required by Maryland's HQL law  
16 has reduced accidental shootings in Maryland?

17 MR. SWEENEY: Objection.

18 A. That's correct. I don't know one way or  
19 the other.

20 Q. Do you have an understanding of whether a  
21 background check was required under Maryland and/or  
22 federal law prior to the enactment of the HQL law?

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1           A. Yes. My understanding was that it was  
2 such a requirement.

3           Q. And do you know what the prior background  
4 check consisted of?

5           A. I'm not sure I understand. What do you  
6 mean "consisted of"? You mean who was prohibited  
7 or --

8           Q. No, no, no.

9                         What background check was conducted?

10          A. Well, the federal procedure that  
11 prevailed before the HQL was implemented was that  
12 you would go to the seller and identify yourself  
13 and provide suitable identification and they would,  
14 in turn, contact a law enforcement database and a  
15 background check would be performed, and if you  
16 passed, the sale would go through, and if you were  
17 denied, it would, at least for a time, the sale  
18 would not go through.

19          Q. Do you have any understanding of whether  
20 there is a difference between the background check  
21 that was conducted prior -- in Maryland -- prior to  
22 the HQL law and the background check that's

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1 required under the HQL law?

2 A. I'm not aware of any difference.

3 Q. Did the background check that was in  
4 effect prior to the HQL require that the --

5 A. Hold on; can I revise that answer?

6 Q. Yes.

7 A. My understanding is that, under the HQL,  
8 the background check also applies to private  
9 transfers of firearms; in other words, non-dealer  
10 transfers, whereas, at least the federal background  
11 check that prevailed before the HQL only covered  
12 dealer transfers.

13 Q. Do you have an understanding of whether  
14 the -- whether Maryland law required a background  
15 check or private sales of handguns prior to the HQL  
16 law?

17 A. I don't think it did, but I'm not certain  
18 about that.

19 Q. Did the background check that was  
20 required by Maryland law prior to the HQL law  
21 require that the applicant be fingerprinted?

22 A. I don't know.

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1 Q. You would agree that the purpose of  
2 requiring a background check prior to the purchase  
3 of a handgun is to prevent certain individuals who  
4 were not qualified to own handguns from acquiring  
5 them; is that correct?

6 MR. SWEENEY: Objection.

7 A. Yes.

8 Q. And you would agree that, under federal  
9 law and Maryland law, that certain persons are  
10 prohibited from purchasing a handgun; correct?

11 A. Yes.

12 Q. And that includes convicted felons;  
13 correct?

14 A. Yes.

15 Q. And includes individuals convicted of  
16 certain misdemeanors involving violence; correct?

17 A. Yes.

18 Q. And it includes persons who have been  
19 adjudicated mentally defective or who have been  
20 committed to a mental institution; correct?

21 A. Yes.

22 Q. And it includes persons who are habitual

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1 drunkards or alcoholics; correct?

2 A. Yes.

3 Q. Have you done any study or analysis to  
4 determine if the requirement under Maryland's HQL  
5 law, that an applicant be fingerprinted, has  
6 reduced the number of handguns possessed by  
7 convicted felons in Maryland?

8 A. No.

9 Q. Are you aware of any such study?

10 A. No.

11 Q. Are you aware of any empirical facts or  
12 data that show whether the requirement under  
13 Maryland's HQL law, that an applicant be  
14 fingerprinted, has reduced the number of handguns  
15 possessed by convicted felons in Maryland?

16 A. No.

17 Q. So in light of that testimony, you would  
18 agree that you don't know one way or the other  
19 whether the requirement under Maryland's HQL law,  
20 that an applicant be fingerprinted, has reduced the  
21 number of handguns possessed by convicted felons in  
22 Maryland?

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1                   MR. SWEENEY: Objection.

2                   A. Yes.

3                   Q. Have you done any study or analysis to  
4 determine if the requirement under Maryland's HQL,  
5 that an applicant be fingerprinted, has reduced the  
6 number of handguns possessed by persons in Maryland  
7 who are not qualified to possess handguns under  
8 federal or state law?

9                   A. No, I have not done such study, and I  
10 don't know of anyone else who has.

11                  Q. Are you aware of any empirical facts or  
12 data that show whether the requirement under  
13 Maryland's HQL law, that an applicant be  
14 fingerprinted, has reduced the number of handguns  
15 possessed by persons in Maryland who are not  
16 qualified to possess handguns under federal or  
17 state law?

18                  A. No.

19                  Q. In light of that testimony, you would  
20 agree that you don't know one way or the other  
21 whether the requirement under Maryland's HQL law,  
22 that an applicant be fingerprinted, has reduced the

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1 number of handguns possessed by persons in Maryland  
2 who are not qualified to possess handguns under  
3 federal or state law?

4 MR. SWEENEY: Objection.

5 A. Yes.

6 Q. Are you familiar with the term "straw  
7 purchaser" of a handgun?

8 A. Yes.

9 Q. Have you done any study or analysis to  
10 determine -- well, strike that.

11 What does that term mean to you?

12 A. A straw purchaser is a person who is  
13 legally eligible to buy a gun, and they represent  
14 themselves to the seller as if they were the true  
15 purchaser when, in fact, they are fronting for  
16 someone else who is providing the money for the  
17 purchase and who is presumably not qualified;  
18 otherwise, they'd have no motive for doing it,  
19 although that's not technically part of the  
20 definition.

21 Q. Have you done any study or analysis to  
22 determine if the requirement under Maryland's HQL

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1 law, that an applicant be fingerprinted, has  
2 reduced the number of straw purchases of handguns  
3 in Maryland?

4 A. No.

5 Q. Are you aware of any empirical facts or  
6 data that show whether the requirement under  
7 Maryland's HQL law, that an applicant be  
8 fingerprinted, has reduced the number of straw  
9 purchases of handguns in Maryland?

10 A. No.

11 Q. In light of that testimony, you would  
12 agree that you don't know one way or the other  
13 whether the requirement under Maryland's HQL law,  
14 that an applicant be fingerprinted, has reduced the  
15 number of straw purchases of handguns in Maryland?

16 MR. SWEENEY: Objection.

17 A. Yes.

18 Q. Have you done any study or analysis to  
19 determine if the training required by Maryland's  
20 HQL law has had any effect on compliance with  
21 Maryland law regulating the storage of handguns in  
22 the home?

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1 A. No.

2 Q. Are you aware of any empirical facts or  
3 data that show whether the training required by  
4 Maryland's HQL law has had any effect on compliance  
5 with Maryland law regulating the storage of  
6 handguns in the home?

7 A. No.

8 Q. In light of your testimony, you would  
9 agree that you don't know one way or the other  
10 whether the training required by Maryland's HQL has  
11 enhanced compliance with Maryland law, regulating  
12 the storage of handguns in the home?

13 MR. SWEENEY: Objection.

14 A. Yes.

15 Q. Have you done any study or analysis to  
16 determine if the enactment of Maryland's HQL law  
17 has reduced the amount of gun crime in Maryland?

18 A. Could you repeat that question, please?

19 MR. SCOTT: Could you read it back,  
20 please?

21 COURT REPORTER: I cannot.

22 MR. SCOTT: Oh, okay.

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1 BY MR. SCOTT:

2 Q. Have you done any study or analysis to  
3 determine if the enactment of Maryland's HQL law  
4 has reduced the amount of gun crime in Maryland?

5 A. No.

6 Q. Are you aware of any such studies?

7 A. I'm aware of Professor Webster's studies  
8 where he attempted to do that, but I don't think  
9 there's any reliable findings yielded by that  
10 research.

11 Q. Are you aware of any other such studies?

12 A. No.

13 Q. Are you aware of any empirical facts or  
14 data that show whether the enactment of Maryland's  
15 HQL law has reduced the amount of gun crime in  
16 Maryland?

17 A. Again, the answer would be the same,  
18 given that homicide is one kind of crime, and so,  
19 yes, I mean, Webster's attempted to evaluate that,  
20 and I don't think it yielded any reliable  
21 information.

22 Q. All right. So other than Professor

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1 Webster's study, you're not aware of any empirical  
2 facts or data that show whether the enactment of  
3 Maryland's HQL law has reduced the amount of gun  
4 crime in Maryland?

5 A. When I refer to Professor Webster's  
6 research, I'm referring to three studies, not just  
7 one study, and I would include, for example, the  
8 Kerfazi (ph), et al., the "et al." including  
9 Webster has one of the authors.

10 Q. All right. So other than those -- the  
11 three studies involving Professor Webster, you're  
12 not aware of any empirical facts or data that show  
13 whether the enactment of Maryland's HQL law has  
14 reduced gun crime in Maryland?

15 MR. SWEENEY: Objection.

16 A. Yes.

17 Q. And in light of your testimony, you would  
18 you don't know one way or the other whether the  
19 enactment of Maryland's HQL law has reduced the  
20 amount of gun crime in Maryland; correct?

21 MR. SWEENEY: Objection.

22 A. Yes.

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1 Q. Have you done any study or analysis to  
2 determine if the enactment of Maryland's HQL law  
3 has reduced the number of suicides by handguns in  
4 Maryland?

5 A. No.

6 Q. Are you aware of any such studies?

7 A. No.

8 Q. Are you aware of any empirical facts or  
9 data that show whether the enactment of Maryland's  
10 HQL law has reduced the number of suicides by  
11 handguns in Maryland?

12 A. No.

13 Q. And in light of that testimony, you would  
14 agree that you don't know one way or the other  
15 whether the enactment of Maryland's HQL law has  
16 reduced the number of suicides by handguns in  
17 Maryland?

18 MR. SWEENEY: Objection.

19 Q. Is that correct?

20 A. Yes.

21 Q. All right. In your report, which is  
22 Exhibit 118, you discuss Professor Webster's

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1 don't know what it indicates.

2 Q. Are you -- do you have any legal  
3 training?

4 A. No.

5 Q. Let's refer to your C.V., which is  
6 included in the report. It was previously marked  
7 as Exhibit 118. I believe your C.V. begins on page  
8 46.

9 I notice that you have a separate section  
10 under publications under C.V. for articles in  
11 peer-reviewed journals. That starts on page 49.  
12 Is that correct?

13 A. Yes.

14 Q. And what is the significance of an  
15 article being peer reviewed?

16 A. When an author submits an article to a  
17 professional journal, the journal will send it out  
18 to people who are hopefully experts on the same  
19 topic, and they'll make an evaluation and a  
20 recommendation as to whether or not it ought to be  
21 published.

22 So it serves as a screening purpose. The

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1 purpose is, at least theoretically, to preclude the  
2 worst research from being published.

3 Q. Are peer-reviewed articles likely -- are  
4 peer-reviewed articles more likely to be accepted  
5 as valid by a researcher's colleagues than  
6 non-peer-reviewed articles?

7 A. Yes. Rightly or wrongly, that's true.

8 Q. Your report references an article that  
9 you published in 2009 called "The Myth of Big-time  
10 Gun Trafficking" in the "UCLA Law Review" with  
11 Shun-Yung Wang; is that correct?

12 A. Yes.

13 Q. Was that article peer reviewed?

14 A. I'm not sure. Law reviews typically  
15 don't have peer review, but on occasion, they do,  
16 and it's possible they did in that case. I really  
17 don't remember.

18 Q. But you would agree that articles in law  
19 reviews are typically not peer reviewed?

20 A. That is correct.

21 Q. You also list a 2013 article in your C.V.  
22 that was published in the Fordham Urban Law

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1 Journal. Was that article peer reviewed?

2 A. No. I mean, it's misplaced and it  
3 probably should have been in the other articles  
4 section.

5 Q. What about the 1999 article in the  
6 St. Louis University Law Review? Was that peer  
7 reviewed?

8 A. I'm not sure about that one.

9 Q. When were you first contacted about this  
10 case?

11 A. Oh, I couldn't really tell you for sure  
12 but sometime in the past year or so.

13 Q. And who contacted you initially?

14 A. I think it might have been Jay -- Jay --  
15 it's John's law firm, but I forget the guy's last  
16 name.

17 Q. So it was somebody at Mr. Sweeney's firm?

18 A. It was.

19 Q. Other than the documents that you  
20 provided in response to the subpoena today, were  
21 you provided with any factual information about  
22 this case from anybody in Mr. Sweeney's firm?